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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,722	09/08/2003	Chris Chudek	2185.010USU	8897
7590	03/03/2005		EXAMINER	
Charles N.J. Ruggiero, Esq. Ohlandt, Greeley, Ruggiero & Perle, L.L.P. 10th Floor One Landmark Square Stamford, CT 06901-2682			COHEN, AMY R	
			ART UNIT	PAPER NUMBER
			2859	

DATE MAILED: 03/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/657,722

Applicant(s)

CHUDEK ET AL.

Examiner

Amy R. Cohen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2004.  
2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-5, 7-15 and 17-20 is/are rejected.  
7) ☒ Claim(s) 6 and 16 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 29 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5, 7-11, 13-15, 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Jamison et al. (U. S. Patent No. 2,537,058).

Jamison teaches a compass assembly (Fig. 1) comprising: a first member (2, 5, 7); a second member (9, 10) pivotally connected to said first member at a common end (8), wherein said first member has an anchor point (3) opposite said common end and said second member retains a marking device (12) opposite said common end; and a compressible cover (16) being connected to said first member and positioned over said anchor point (Col 2, line 29-Col 3, line 27).

Jamison teaches the compass assembly, further comprising a gripping member (14) positioned at said common end point (Fig. 1).

Jamison teaches the gripping member, wherein said gripping member has a textured or perforated surface (Fig. 1).

Jamison teaches the compass assembly, wherein said compressible cover is elastomeric (Col 2, line 29-Col 3, line 27).

Jamison teaches the compass assembly, wherein said compressible cover is tubular (25, 26 Col 4, lines 24-54).

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Jamison teaches the compass assembly wherein said compressible cover has slits (21, 27-29, Figs. 3, 7, and 8).

Jamison teaches the compass assembly, wherein said compressible cover has a first end (17) connected to said first member and extending a second end (22, 26, 33) opposite said first end and beyond said anchor point in a neutral state (Col 3, line 28-Col 4, line 54).

Jamison teaches the compass assembly wherein said compressible cover compresses to expose said anchoring point when downward pressure is applied (Col 2, line 29-Col 3, line 27).

Jamison teaches a compass assembly (Fig. 1) comprising: a first member (2, 5, 7); a second member (9, 10) being pivotally connected (8) to said first member; a gripping member (14) being connected to said first member and said second member; and a compressible cover (16) being positioned on said first member and around a pointed end (3) of said first member (Col 2, line 29-Col 3, line 27).

Jamison teaches the compass assembly, wherein said first member connects with said second member at a common end point (8) to make a movable joint (Col 2, line 29-Col 3, line 27).

Jamison teaches the compass assembly wherein said compressible cover is a hollow tube (Figs. 1-9).

Jamison teaches the compass assembly wherein said compressible cover has vertical slits (27-29, Figs. 7-9).

Jamison teaches a method of using a compass assembly comprising: pivoting a first member relative to a second member, wherein said second member has a marking device connected thereon (Col 3, lines 28-45); grasping a gripping member connected to said first member and said second member; applying downward pressure on a compressible member

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connected to said first member and covering a pointed end of said first member so that said pointed end protrudes from said compressible member, thereby anchoring said compass assembly to a surface (Col 2, line 29=Col 3, line 27); rotating said compass assembly so that the marking device describes an arc on the surface (Col 1, lines 6-19); and lifting said compass assembly from the surface so that said compressible member extends to a neutral position wherein said pointed end is covered (Col 2, line 29-Col 3, line 27).

*Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jamison et al. in view of Hanle (U. S. Patent No. 2,045,298).

Jamison et al. discloses the compass assembly as described above in paragraph 4.

Jamison et al. does not disclose a compass assembly wherein said first member and said second member are connected by a gear mechanism.

Hanle discloses a compass assembly (Fig. 1) wherein said first member (11) and said second member (10) are connected by a gear mechanism (23, 24, 25).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the compass assembly of Jamison to include a gear mechanism between the first and second members, as taught by Hanle, so that the first and second members could be

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spaced apart from each other in a measurable and selectable manner more easily (Hanle, Col 1, lines 1-12 and 39-53).

### *Allowable Subject Matter*

5. Claims 6 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### *Reasons for Allowance*

6. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record does not disclose or suggest a compass assembly comprising a compressible cover being connected to said first member and positioned over said anchor point wherein said compressible cover is a bellows.

### *Response to Arguments*

7. Applicant's arguments filed December 29, 2004, with respect to claims 1-5, 7-15, 17-20 have been fully considered but they are not persuasive.

Regarding Applicant's claim that the cover in Jamison is not compressible, Examiner disagrees. In order for the device to gain suction, the "yieldable engaging surface" must be compressible (Jamison, Col 2, line 51-Col 3, line 23). Further, being yieldable is akin to being compressible.

Regarding Applicant's argument that the device is not a cover/does not cover, Examiner disagrees. The device of Jamison (16 attached to 17) clearly covers the anchor point (3) in Figs.

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1, 6, and 9. Moreover, Jamison recites that the device (16 and 17) is placed over the anchor point (3) and can be adjusted as the height requires (Col 3, line 68-Col 4, line 23 and Figs. 1, 6, and 9).

Regarding Applicant's arguments that Jamison in view of Hanle does not teach a gear mechanism, Examiner disagrees. First Examiner notes that claim 12 recites "wherein said first member and said second member are connected by a gear mechanism." And, that claim 10 recites "a second member being pivotally connected to said first member." It is not claimed that the pivotal connection be a gear mechanism, nor is it claimed that the pivotal connection and the gear connection be at the same point. Jamison teaches a pivotal connection at 8. Hanle teaches a pivotal connection at 19 and a gear mechanism, connecting the first and second members at 23, 24, 25. Therefore, Hanle teaches both a pivotal and gear mechanism. Attaching a gear mechanism to Jamison, as taught by Hanle, so that the first and second members could be spaced apart from each other in a measurable and selectable manner more easily (Hanle, Col 1, lines 1-12 and 39-53) is an obvious modification and remains within the limitations of the claim language.

### *Conclusion*

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

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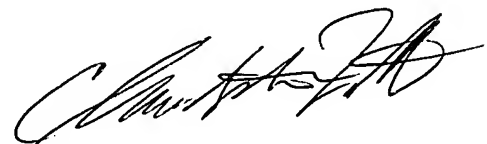
will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy R. Cohen whose telephone number is (571) 272-2238. The examiner can normally be reached on 8 am - 5 pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ARC  
March 1, 2005



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